



ITW

Atty Docket: ITW-13965

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Steven Ausnit

Serial No.: 10/747,849

Group Art Unit:

Filed: December 29, 2003

Examiner:

Title: METHOD AND APPARATUS FOR MAKING  
RECLOSABLE PACKAGES HAVING  
SLIDER-ACTUATED STRING ZIPPERS

Hon. Commissioner of Patents & Trademarks  
Washington, D.C. 20231

**RESPONSE TO NON-FINAL ACTION  
REQUIRING ELECTION OF SPECIES**

Sir:

This is in response to the Office Action dated September 13, 2004 in the above-referenced patent application. In that non-final action, the Examiner has required election of one of the following four species: Species I: claims 1-20; Species II: claims 21-30, 37-40, and 50; Species III: claims 31-36 and 41-45; Species IV: claims 46-49. In case Applicant elected Species II, the Examiner further required restriction between the method claims 21-30 and 50 and the apparatus claims 37-40.

In response to the election requirement, the Applicant hereby elects, with traverse, Species I. Claims 1-20 read on Species I.

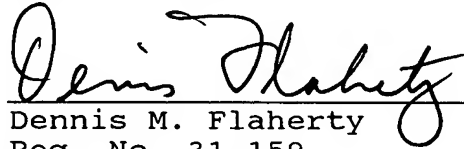
The traversal is based on the impropriety of an election of species identified (as the Examiner has done) by respective sets of claims. The Manual of Patent Examining Procedure, Section 806.04(e), states:

*Claims are definitions of inventions. Claims are never species. . . . Species are always the specifically different embodiments.*

[Emphases in original.] Thus, the Examiner's identification of the different species in terms of claim sets is clearly erroneous.

The Applicant respectfully requests that the election/restriction requirements set forth in the outstanding office action be rescinded.

Respectfully submitted,



Dennis M. Flaherty  
Reg. No. 31,159  
Ostrager Chong Flaherty &  
Broitman P.C.  
250 Park Avenue, Suite 825  
New York, NY 10177-0899  
(212) 681-0600

September 29, 2004  
Date

CERTIFICATE OF MAILING

The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: MS Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date set forth below.

September 29, 2004  
Date

  
Dennis M. Flaherty